

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-1293

VERNON AVERY YATES,

Petitioner,

versus

LITTLE SIX CORPORATION; DIRECTOR, OFFICE OF
WORKERS' COMPENSATION PROGRAMS, UNITED STATES
DEPARTMENT OF LABOR,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(94-2343-BLA)

Submitted: June 30, 1997

Decided: November 4, 1997

Before MURNAGHAN, WILKINS, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Vernon Avery Yates, Petitioner Pro Se. Ramesh Murthy, PENN, STUART
& ESKRIDGE, Abingdon, Virginia; Christian P. Barber, Helen Hart
Cox, UNITED STATES DEPARTMENT OF LABOR, Washington, D.C., for
Respondents.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of black lung benefits pursuant to 30 U.S.C.A. §§ 901-945 (West 1986 & Supp. 1997). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we affirm on the reasoning of the Board. Yates v. Little Six Corp., No. 94-2343-BLA (Jan. 26, 1995). We deny the employer's motion to strike the Director's brief, but nonetheless decline to consider issues not raised before the Board. See Big Horn Coal Co. v. Director, Office of Workers' Compensation Programs, Dep't of Labor, 897 F.2d 1052, 1054 (10th Cir. 1990); see also Pleasant Valley Hosp., Inc. v. Shalala, 32 F.3d 67, 70 (4th Cir. 1994). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED